

BILATERAL ARRANGEMENTS BYELAW

Commencement

This byelaw came into force on 14 April 1999.

Amendments

This byelaw was amended by the Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000).

Explanatory Note

(This note is not part of the byelaw)

This byelaw sets out the general structure of the rules governing a permitted bilateral arrangement. Permitted bilateral arrangements are subject to certain rules analogous to some of the Auction Rules: the amount of capacity transferred is subject to any "de-emption" by the managing agent; and managing agents are required to enter into standard agency agreements with the nominee and the nominee's members' agents.

To avoid any suggestion that permitted bilateral arrangements involve the issue of, or trading in, securities for the purpose of US securities law members (or prospective members) are each limited to 25 permitted bilateral arrangements per syndicate. For the purpose of the 25 transaction limit, the syndicate MAPA capacity is treated as if it were that of a single member.

The Council of Lloyd's in exercise of its powers under section 6(2) of, and paragraphs (4) and (15) of Schedule 2 to, Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

Part A – Preliminary

1. Interpretation

- (1) In this byelaw “permitted bilateral arrangement” means a participation nomination or a second nomination:
 - (a) validated by or under the authority of the Auction Official during such period as the Council may from time to time prescribe;
 - (b) for which the only consideration is cash; and
 - (c) which complies with the requirements of this byelaw and the conditions imposed or requirements made under it.
- (2) The provisions of the Schedule to this byelaw (interpretation) shall have effect.

Part B - Permitted Bilateral Arrangements

2. Amendment of Agency Agreements Byelaw (No. 8 of 1988)

These amendments have been made on the main byelaw.

3. Auctions

(1) Where the proposed permitted bilateral arrangement concerns a syndicate in respect of which a tender order has been submitted in the most recent auction which:

- (a) specified a floor limit lower than the price specified in the proposed permitted bilateral arrangement; and
- (b) remains unsatisfied

the proposed nominee shall satisfy that order in priority to the proposed permitted bilateral arrangement in accordance with the requirements and conditions made by the Council under paragraph 5.

(2) Where the proposed bilateral arrangement concerns a syndicate in respect of which a subscription order has been submitted in the most recent auction which:

- (a) specified a subscriber's premium higher than the price specified in the proposed permitted bilateral arrangement; and
- (b) remains unsatisfied

the party making the proposed participation nomination or second nomination shall satisfy that order in priority to the proposed permitted bilateral arrangement in accordance with the requirements and conditions made by the Council under paragraph 5.

4. Validation

(1) A permitted bilateral arrangement shall be conditional on its validation by or under the authority of the Auction Official.

(2) The validation of any permitted bilateral arrangement shall be effected in such manner and within such period, and subject to such other conditions and requirements, as are for the time being prescribed under paragraph 5.

5. Conditions and requirements

- (1) The Council may prescribe such conditions or requirements to be satisfied or complied with in relation to any permitted bilateral arrangement as it may think fit.
- (2) Without prejudice to the generality of sub-paragraph (1), any conditions and requirements under that sub-paragraph:
 - (a) may include requirements as to the manner in which and time by which any submission for validation under paragraph 4 shall be made;
 - (b) may include the requirement to complete notices or other documents with such contents and such form as may be prescribed by the Auction Official or any other person for the time being authorised by the Council;
 - (c) may include the requirement to execute and deliver or otherwise become a party to any form of contract, assignment, undertaking, mandate, or other document or instrument whatsoever prescribed by the Auction Official or any other person for the time being authorised by the Council;
 - (d) may be applicable generally or in relation to any particular case or class of cases;
 - (e) may specify circumstances in which a person is to be exempt from any such condition or requirement or may be excused from compliance with any such condition or requirement to such extent as the Council may think fit; and
 - (f) may contain incidental, supplementary and transitional provisions.

6. Annual limit on permitted bilateral arrangements

- (1) A member or a candidate shall not enter into more than 25 permitted bilateral arrangements in any one year of account in relation to the same syndicate, whether as the member making the participation nomination or the second nomination or as the nominee.
- (2) For the purpose of this paragraph only, permitted bilateral arrangements made in respect of prospective participations through a single MAPA shall be treated as a single permitted bilateral arrangement.

7. Reduction in syndicate capacity made by managing agent

Where, in accordance with paragraph 5 of the Syndicate Pre-emption Byelaw (No. 19 of 1997), a managing agent reduces the syndicate allocated capacity of a syndicate for the succeeding year of account the amount of his member's syndicate premium limit in respect of which a member may make a permitted bilateral arrangement shall be

reduced by the same proportion as the member's syndicate premium limits of the members for the current year of account who are to participate in the syndicate for the succeeding year of account.

8. Overseas jurisdictions

- (1) The Council may prohibit, or impose such conditions or requirements as it thinks fit in relation to, any permitted bilateral arrangement where any party thereto is resident or domiciled in a jurisdiction outside the United Kingdom if it appears to the Council that such arrangement would be unlawful or would require compliance with unduly burdensome requirements.
- (2) The powers of the Council under this paragraph may be exercised generally or in relation to any particular case or class of cases.

9. Fees

The Council may prescribe fees to be paid by any person in respect of any permitted bilateral arrangement or the validation thereof.

Part C - Miscellaneous And Supplementary

10. Modification of Conversion Rules and Auction Rules etc.

The Council may in relation to permitted bilateral arrangements or for purposes consequential to this byelaw amend, modify or disapply, whether generally or in relation to a particular case or class of cases, any provision of the Conversion Rules, the Auction Rules or any conditions or requirements made in respect of corporate members under the Membership Byelaw (No. 17 of 1993).

11. Furtherance of permitted bilateral arrangement

- (1) The managing agent and the nominee's members' agent shall do all such acts and things and shall execute all such documents as shall be necessary or expedient on their part to give effect to a permitted bilateral arrangement.
- (2) Without limiting the generality of sub-paragraph (1), the managing agent shall enter into an agreement in the terms of the standard managing agent's agreement (general) or standard managing agent's agreement (corporate member) with the nominee.
- (3) Subject to sub-paragraph (4) and without limiting the generality of sub-paragraph (1), the managing agent shall enter into an agreement in the terms of the standard agent's agreement with the nominee's members' agent if there is no such agreement current between the managing agent and that members' agent.
- (4) The Council may, on application by the managing agent, waive the requirements of sub-paragraph (3) in any particular case.

12. Commencement

This byelaw shall come into force on 14 April 1999.

Schedule - Interpretation

In this byelaw, unless the context otherwise requires –

“auction” means an auction held under a capacity allocation scheme established under the Auction Byelaw (No. 14 of 1997);

“Auction Official” means the person for the time being appointed under paragraph 3 of the Auction Byelaw (No. 14 of 1997);

“Auction Rules” means the Auction Rules, as from time to time amended, made by the Council under paragraph 2(5) of the Auction Byelaw (No. 14 of 1997);

“floor limit” means the minimum premium which a tenderer requires to receive in respect of each £1 of tendered capacity in an auction;

“participation nomination” means a nomination such as is referred to in clause 11A.2 of an agreement in the terms of the standard managing agent’s agreement (general) or of the standard managing agent’s agreement (corporate member) respectively prescribed by the Agency Agreements Byelaw (No. 8 of 1988);

“prospective participation” means, in relation to a syndicate, the amount of the member’s syndicate premium limit with which a person will be entitled to participate as a member of that syndicate for the following year of account;

“second nomination” has the meaning given in the Schedule to the Assignment of Syndicate Participations (Second Nomination) Byelaw (No. 6 of 2000);

“subscribed capacity” means the amount of the prospective participation specified in a subscription order;

“subscriber” means a person on whose behalf a subscription order is submitted;

“subscriber’s premium” means the premium which a subscriber is willing to pay in respect of each £1 of subscribed capacity;

“subscription order” has the meaning given in the Auction Byelaw (No. 14 of 1997);

“syndicate” means a group of members of Lloyd’s or a single corporate member underwriting insurance business at Lloyd’s through the agency of a managing agent to which a particular syndicate number is assigned by or under the authority of the Council;

“tendered capacity” means the amount of the prospective participation specified in a tender order;

“tenderer” means a person on whose behalf a tender order is submitted;

“tender order” has the meaning given in the Auction Byelaw (No. 14 of 1997);

“validation date” means the date on which a permitted bilateral arrangement is validated and becomes unconditional.